IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

OP.No. 36862 of 2002(L)

PETITIONER:

N.NOOJAN, W/O. SIYABUDEEN,
KUNNUVILA KIZHAKKATHIL VEEDU, PEROOR,
THATTARKONAM P.O., KOLLAM.

BY ADV. SRI.N.SUGATHAN
SRI.A.V.RAMAKRISHNA PANICKER

RESPONDENTS:
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1. THE ADDITIONAL DISTRICT MAGISTRATE,
COLLECTORATE, KOLLAM.

2. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICITY MAJOR SECTION, K.S.E.B.,
KILIKOLLOOR, KOLLAM-15.

3. ABIDA UMMAL, W/O. YUNUS KUNJU,
THENGUVILA VEEDU, PEROOR, THATTARKONAM,
THRIKKOVILVATTOM, KOLLAM.

4. Y.KUNJUMON,
THENGUVILA VEEDU, PEROOR, THATTARKONAM P.O.,
KOLLAM-5.

BY ADV. SRI.N.D.PREMACHANDRAN, SC, KSEB
SMT.V.P.SEEMANDINI
SRI.M.S.UNNIKRISHNAN
GOVERNMENT PLEADER
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 36862/2002

ORDER ON CMP NO. 62302/2002 ON O.P.No. 36862/2002

DISMISSED.

20/03/2007. SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF LETTER NO. DB8/98-99/156 DATED 14/08/1998 OF THE 2ND RESPONDENT.

EXT.P2 COPY OF APPLICATION DATED 22/8/1998 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P3 COPY OF ROUGH SKETCH SHOWING THE LOCATION OF THE PROPERTIES, EXISTING SUPPLY LINE, PROPOSED SUPPLY LINE ETC.

EXT.P4 COPY OF JUDGMENT DATED 18/1/2001 IN WA NO. 2094/2000.

EXT.P5 COPY OF ORDER NO. K.DIS.M4-55578/98 DATED 22/10/2002 OF THE 1ST RESPONDENT.

EXT.P6 COPY OF LETTER DATED 22/9/1998 OF THE 2ND RESPONDENT TO THE DISTRICT COLLECTOR, KOLLAM WITH THE SKETCH.

EXT.P7 COPY OF LETTER DATED 15/9/2000 OF THE 2ND RESPONDENT to the PETITIONER.

EXT.P8 COPY OF ASSIGNMENT DEED EXECUTED ON 19TH CHANGAM 1123 ME.

EXT.P9 COPY OF INJUNCTION APPLICATION IN O.S. NO. 70/2006.

RESPONDENT'S EXHIBITS

EXT.R3(a) COPY OF ROUGH SKETCH SHOWING THE ACTUAL LIE OF THE PROPERTIES.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 36862 of 2002 L

Dated, this the 20th day of March, 2007

J U D G M E N T

Heard the learned counsel for the petitioner, learned Standing Counsel appearing for the KSEB and the learned counsel appearing for the 3rd respondent.

2. Petitioner is challenging Ext.P5 order issued by the first respondent declining to grant shifting of the electric line stated to be passing through petitioner's property for the connection given to the 3rd respondent. Petitioner's case was recommended by KSEB but in spite of the same first respondent declined shifting for the reason that the alternate route is a narrow pathway. The learned counsel for the third respondent referred to Ext.P5 and a sketch produced by him showing that line is not passing through petitioner's property. If the electric line is not passing through petitioner's property then petitioner has no locus standi to maintain an application for shifting of the line. However, if electric line is passing through petitioner's property as claimed by her through the sketch produced by her, then I feel the order

of the first respondent deserves to be reversed because post can be erected on the extreme side of the pathway without affecting its width. In the circumstance, the petitioner is directed to get a sketch prepared by the Village Officer who will do it after identifying the property of the petitioner and if the sketch produced shows the electric line is passing through petitioner's property, then Ext.P5 will stand quashed and there will be direction to 2nd respondent to shift the line at petitioner's cost in the alternate route by fixing a post on the extreme side of the pathway reducing its width at minimum possible. I make it clear that no disconnection will be made for any appreciable period causing inconvenience to 3rd respondent. In other words, if shifting is carried out, the same shall be done without breaking the electric supply to the 3rd respondent for long period. If the Village Officer does not find that the existing electric line is passing through petitioner's property, then the existing line can be continued as petitioner can have no grievance.

This original petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg